

Amendment to TOOL VENDING MACHINES AND METHOD THEREFORE
Stephen M. Pixley, et al., inventors
Serial No. 10/791,991
Filed March 2, 2004
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REMARKS/ARGUMENTS

Claims 1, 2, 4, 6, 8-12, 14, 15 and 18 remain in this application.

Claims 3, 5, 7, 13, 16 and 17 have been canceled.

Claims 1, 8, 10, 11, 14, 15 and 18 have been amended.

The indicating that Claim 3 contains allowable subject matter has been noted.

The subject matter of dependent Claim 3 has now been included within Claim 1. Therefore, it is believed that independent Claim 1 and dependent Claims 2, 4, and 6-10 should be in condition for formal allowance.

The Examiner is requesting that applicant submit a copy of each publication which any of the applicants authored or co-authored in any publication describing the invention the assignee owns or the assignee acknowledges and which describes the claimed subject matter of tool vending machines. To applicant's knowledge, none of the applicants have authored or co-authored any such publications. Assignee has produced brochures on the subject matter which is used in conjunction with sales. However, brochures are not deemed to publications.

The specification has been amended in a manner it is believed to overcome the objections noted by the Examiner. These objections have been well taken by applicants.

Claim 10 has been objected to and Claim 10 has now been amended in a manner that is believed overcomes this objection.

Claim 8 has been rejected under 35 U.S.C. §112. Claim 8 has now been

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amended, it is believed, in a manner that overcomes this rejection.

Independent Claim 11 has been rejected under 35 U.S.C. §102(b) as being anticipated by Krakauer. This rejection is respectfully traversed.

Claim 11 defines a baffle assembly and this baffle assembly is to automatically adjust the size of the opening to correspond to the size of the compartment with it being understood that only a single compartment can be aligned with the door at a time. It is agreed that Krakauer shows structure that adjusts a door opening to the size of a compartment. However, applicant's structure utilizes a plurality of plates. The Examiner is stating that such a plurality of plates are shown in Figure 3 of Krakauer. Applicant has made what is believed to be a careful observation of Figure 3 and reading of the specification of Krakauer and applicant is not able to find such a plurality of plates. If the Examiner persists in this rejection, it would be appreciated if the Examiner would call attention to applicants where these plurality of plates are located in Krakauer.

It appears that within Krakauer that the door control mechanism of Krakauer is adjusted to limit access to only one of the smaller compartments. To applicant, it appears that this adjustment is done electronically and Krakauer does not use a plurality of plates. Therefore, it is believed that the structure defined within independent Claim 11 defines different subject matter than that in Krakauer and that this different subject matter is patentably distinctive and that independent Claim 11 should be allowed.

Claims 12 and 14, which are dependent from Claim 11, are believed will be allowed upon Claim 11 being allowed. Claim 14 adds a further distinction that the plurality

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of plates actually comprise a pair of plates which are movable simultaneously in opposite directions. No such structure is even remotely shown or taught by Krakauer. The Examiner is referring that this structure is shown in Figure 3 of Krakauer but applicants are unable to determine such structure from Figure 3. If the Examiner persists in this rejection, it would be appreciated if the Examiner could call attention where in Figure 3 is there a showing of a pair of plates which are movable simultaneously in opposite directions.

Claims 15 and 18 have been rejected under 35 U.S.C. §102(b) as being anticipated by Krakauer. This rejection is respectfully traversed. Claim 15 defines that the step of automatically adjusting is accomplished by moving a plate assembly to restrict or enlarge the opening. Again, such a plate movement arrangement is not readily apparent by applicants within Krakauer. Therefore, it is believed that Claim 15 defines allowable subject matter.

Claim 18, which is dependent from Claim 15, has further defined that the step of moving the plate assembly is accomplished by moving a pair of plates in opposite directions. No such step of moving a pair of plates in opposite directions appears to be shown or taught in Krakauer. Therefore, it is believed that Claim 18 also defines allowable subject matter.

The citing of the additional reference to Falk, et al. has been noted as being of interest.

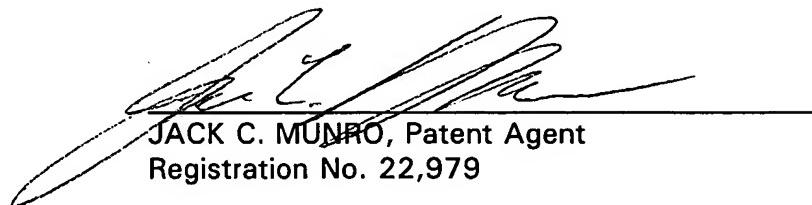
In view of the foregoing amendments to the claims and arguments presented herein, it is believed that the claims as now submitted clearly define allowable subject matter

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over the references of record. It is courteously requested that this application be reconsidered, such reconsideration being favorable resulting in passing of this application to issue.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to account No. 13-4899.

Respectfully submitted,



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